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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. S-386

SHARNJIT (SHARON) KAUR GILL
31242 Lily Street
Union City, CA 94587

STATEMENT OF ISSUES

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about October 18, 2006, the Respiratory Care Board of California, Department of Consumer Affairs received an application for a Respiratory Care Practitioner License from Sharnjit (Sharon) Kaur Gill (Respondent). On or about October 17, 2006, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on June 13, 2007. Respondent requested a hearing on August 9, 2007.

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JURISDICTION

3. This Statement of Issues is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.”

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).”

7. Section 3752 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this article. The board shall order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent order under Section
2 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
3 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
4 accusation, information, or indictment.”

5 8. California Code of Regulations, title 16, section 1399.370, states:

6 “For the purposes of denial, suspension, or revocation of a license, a crime or act
7 shall be considered to be substantially related to the qualifications, functions or duties of
8 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
9 perform the functions authorized by his or her license or in a manner inconsistent with the
10 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
11 those involving the following:

12 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
13 abetting the violation of or conspiring to violate any provision or term of the Act.”

14 “(c) Conviction of a crime involving driving under the influence or reckless
15 driving while under the influence.”

16 COST RECOVERY

17 9. Section 3753.5, subdivision (a) of the Code states:

18 "In any order issued in resolution of a disciplinary proceeding before the board,
19 the board or the administrative law judge may direct any practitioner or applicant found to have
20 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
21 investigation and prosecution of the case."

22 10. Section 3753.7 of the Code states:

23 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
24 include attorney general or other prosecuting attorney fees, expert witness fees, and other
25 administrative, filing, and service fees."

26 11. Section 3753.1 of the Code states:

27 "(a) An administrative disciplinary decision imposing terms of probation may
28 include, among other things, a requirement that the licensee-probationer pay the monetary costs

1 associated with monitoring the probation. "

2 FIRST CAUSE FOR DENIAL OF APPLICATION

3 (Substantially related conviction)

4 12. Respondent's application is subject to denial under sections 3750(d),
5 3750(g), 3752, CCR 1399.370(a) and(c) in that on or about May 23, 2006, in a criminal
6 proceeding entitled *People of the State of California vs. Sharon Kauer Gill*, case no. 216402-8
7 filed in Superior Court, Alameda County, Respondent was convicted on her plea of no contest to
8 a misdemeanor violation of Vehicle Code section 23152(a), driving under the influence of
9 alcohol. The circumstances are as follows:

10 A. On or about December 17, 2005, at about 1:30 a.m. Fremont Police
11 Officer Jacob Shannon was on routine patrol. He noticed a vehicle speeding at approximately 60
12 miles per hour in a 40 mile per hour zone. As he followed the vehicle, it accelerated to 75 miles
13 per hour. He also observed the vehicle drifting out of its lane. He initiated a traffic enforcement
14 stop, and spoke to the female driver (identified as respondent by her California driver's license).
15 She stated that she knew she had been driving too fast and apologized.

16 B. Officer Shannon noticed that respondent's eyes were bloodshot and
17 watery. He asked her if she had been drinking, and she responded that she drank a "few beers"
18 earlier that evening. He asked her to get out of the car to conduct field sobriety tests.
19 Officer Shannon arrested respondent, and she was transported to Washington Hospital. Two
20 vials of blood were drawn, and the results indicated .18% blood alcohol level.

21 13. On or about December 30, 2005, a criminal complaint was filed in
22 Superior Court, Alameda County. Count 1 charged respondent with a violation of Vehicle Code
23 section 23152(a), driving under the influence of an alcoholic beverage. County 2 charged
24 respondent with a violation of Vehicle Code section 23152(b), driving while having 0.08 percent
25 and more, blood alcohol level.

26 14. On or about May 23, 2006, Respondent was convicted on her plea of no
27 contest to a misdemeanor violation of Vehicle Code section 23152(a), driving under the
28 influence of an alcoholic beverage. County 2 was dismissed on motion of the District Attorney.

1 She was sentenced to three years probation, attend and complete a Drinking Driver program,
2 ordered to serve ten days in jail with credit for one day, and ordered pay fines.

3 15. Therefore, respondent's application is subject to denial based on her
4 conviction, which is substantially related to the practice of respiratory care.

5 PRAYER

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

8 1. Denying the application of Sharnjit (Sharon) Kaur Gill for a Respiratory
9 Care Practitioner License;

10 2. Directing Sharnjit (Sharon) Kaur Gill to pay the Respiratory Care Board of
11 California the costs of the investigation and enforcement of this case, and if placed on probation,
12 the costs of probation monitoring;

13 3. Taking such other and further action as deemed necessary and proper.

14 DATED: September 20, 2007

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16 Original Signed by Liane Zimmerman for: _____
17 STEPHANIE NUNEZ
18 Executive Officer
19 Respiratory Care Board of California
20 Department of Consumer Affairs
21 State of California
22 Complainant
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